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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DEREK KIRK,	Case No. 3:17-cv-00334-RCJ-CLB
	ORDER
v.	
NEVADA DEPARTMENT OF CORRECTIONS, <i>et al.</i> ,	
Defendants.	

This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a person in the custody of the Nevada Department of Corrections. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 1). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court imposed a 90-day stay on August 13, 2019, and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF No. 8, 11). The Office of the Attorney General has filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. (ECF No. 12).

For the foregoing reasons, **IT IS ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In

1 the event that this action is dismissed, the full filing fee must still be paid pursuant to 28  
2 U.S.C. § 1915(b)(2).

3 2. The movant herein is permitted to maintain this action to conclusion without  
4 the necessity of prepayment of any additional fees or costs or the giving of security  
5 therefor. This order granting leave to proceed *in forma pauperis* shall not extend to the  
6 issuance and/or service of subpoenas at government expense.

7 3. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections  
8 shall pay to the Clerk of the United States District Court, District of Nevada, 20% of the  
9 preceding month's deposits to Plaintiff's account (Derek Kirk, #1109593), in the months  
10 that the account exceeds \$10.00, until the full \$350.00 filing fee has been paid for this  
11 action. The Clerk of the Court shall **SEND** a copy of this order to the Finance Division of  
12 the Clerk's Office. The Clerk of the Court shall also **SEND** a copy of this order to the  
13 attention of the Chief of Inmate Services for the Nevada Department of Corrections, P.O.  
14 Box 7011, Carson City, NV 89702.

15 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and  
16 a copy of Plaintiff's first amended complaint (ECF No. 6) on the Office of the Attorney  
17 General of the State of Nevada by adding the Attorney General of the State of Nevada to  
18 the docket sheet. This does not indicate acceptance of service.

19 5. Service must be perfected within ninety (90) days from the date of this order  
20 pursuant to Fed. R. Civ. P. 4(m).

21 6. Subject to the findings of the screening order (ECF No. 8), within twenty-  
22 one (21) days of the date of entry of this order, the Attorney General's Office shall file a  
23 notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it  
24 accepts service; (b) the names of the defendants for whom it does not accept service,  
25 and (c) the names of the defendants for whom it is filing the last-known-address  
26 information under seal. As to any of the named defendants for whom the Attorney  
27 General's Office cannot accept service, the Office shall file, under seal, but shall not serve  
28 the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such

1 information. If the last known address of the defendant(s) is a post office box, the Attorney  
2 General's Office shall attempt to obtain and provide the last known physical address(es).


3 7. If service cannot be accepted for any of the named defendant(s), Plaintiff  
4 shall file a motion identifying the unserved defendant(s), requesting issuance of a  
5 summons, and specifying a full name and address for the defendant(s). For the  
6 defendant(s) as to which the Attorney General has not provided last-known-address  
7 information, Plaintiff shall provide the full name and address for the defendant(s).

8 8. If the Attorney General accepts service of process for any named  
9 defendant(s), such defendant(s) shall file and serve an answer or other response to the  
10 complaint within sixty (60) days from the date of this order.

11 9. Henceforth, Plaintiff shall serve upon defendant(s) or, if an appearance has  
12 been entered by counsel, upon their attorney(s), a copy of every pleading, motion or other  
13 document submitted for consideration by the Court. Plaintiff shall include with the original  
14 document submitted for filing a certificate stating the date that a true and correct copy of  
15 the document was mailed or electronically filed to the defendants or counsel for the  
16 defendants. If counsel has entered a notice of appearance, Plaintiff shall direct service  
17 to the individual attorney named in the notice of appearance, at the physical or electronic  
18 address stated therein. The Court may disregard any document received by a district  
19 judge or magistrate judge which has not been filed with the Clerk, and any document  
20 received by a district judge, magistrate judge, or the Clerk which fails to include a  
21 certificate showing proper service.

22 10. This case is no longer stayed.

23 DATED: November 18, 2019.

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26 UNITED STATES MAGISTRATE JUDGE  
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